

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

Ross <b>Gilson</b> , Terrence <b>Ledwell</b> , Vern <b>Lei</b> , Edward <b>McBride</b> , <i>and</i> Salvatore <b>Santucci</b> ,  <i>Plaintiff(s);</i>  <i>vs.</i>  City of <b>Philadelphia</b> ,  <i>Defendant.</i>	Civil Action  <i>No.</i> _____
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**COMPLAINT**

The City of Philadelphia prohibits public possession of any knife or other “Cutting Weapon” anywhere within the City. Even the holder of a Pennsylvania License to Carry Firearms may not carry a pocketknife, despite being authorized to openly carry a firearm. The City’s prohibition on knives violates the Second Amendment of the U.S. Constitution.

**PARTIES**

1. Plaintiff Ross **Gilson** is an adult individual and resident of Philadelphia, Pennsylvania.
2. Plaintiff Terrence **Ledwell** is an adult individual and resident of Philadelphia, Pennsylvania.
3. Plaintiff Vern **Lei** is an adult individual and resident of Philadelphia, Pennsylvania.
4. Plaintiff Edward **McBride** is an adult individual and resident of Glenolden, Pennsylvania.
5. Plaintiff Salvatore **Santucci** is an adult individual and resident of Swathmore, Pennsylvania.
6. Defendant City of **Philadelphia** is a political subdivision of the Commonwealth of Pennsylvania.

## JURISDICTION & VENUE

7. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 1343 (a).
8. This Court also has personal jurisdiction over the City of Philadelphia as a political subdivision of the Commonwealth of Pennsylvania.
9. Venue is proper before this Court under 28 U.S.C. § 1391 (b) because Philadelphia is located within this district.

## LEGAL BACKGROUND

10. The Philadelphia Code § 10-820 (hereinafter “**Knife Ban**”) provides:

**§ 10-820. Cutting Weapons in Public Places.**

(1) *Definition.*

*Cutting Weapon.* Any knife or other cutting instrument which can be used as a weapon that has a cutting edge similar to that of a knife. No tool or instrument commonly or ordinarily used in a trade, profession or calling shall be considered a cutting weapon while actually being used in the active exercise of that trade, profession or calling.

(2) *Prohibited Conduct.* No person shall use or possess any cutting weapon upon the public streets or any public property at any time.

(a) *Exception:* This restriction shall not apply to the use and possession of cutting tools by emergency personnel of the Philadelphia Fire Department, whether on or off duty.

(3) *Penalty.* The penalty for violation of this Section shall be a fine of not less than three hundred dollars (\$ 300) and imprisonment of not less than ninety days.

Phila. Code. § 10-820

11. The text of the Knife Ban is available on the City’s official, electronic reproduction of its Code, available at [https://codelibrary.amlegal.com/codes/philadelphia/latest/philadelphia\\_pa/0-0-0-283002](https://codelibrary.amlegal.com/codes/philadelphia/latest/philadelphia_pa/0-0-0-283002) (attached as Exhibit A).

## **FACTUAL BACKGROUND**

12. Plaintiffs live in Philadelphia or travel regularly to it.
13. Plaintiffs would carry prohibited “Cutting Weapons” in Philadelphia for lawful purposes if the Knife Ban did not exist.
14. The Knife Ban has restrained Plaintiffs from carrying “Cutting Weapons” such as knives.
15. Plaintiffs are not otherwise disqualified from carrying knives or firearms.

## **LEGAL COUNTS**

Count # 1

### **Violation of Civil Rights**

42 U.S.C. § 1983

16. Plaintiffs incorporates by reference ¶¶ 1–15 above as if fully set forth herein.
17. The Second Amendment of the United State Constitution provides:

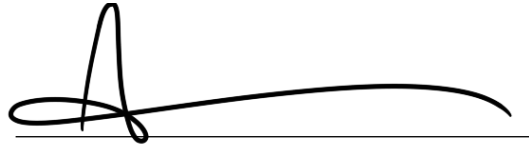
A well regulated Militia, being necessary to the security of a free State, the  
right of the people to keep and bear Arms, shall not be infringed.  
U.S. CONST. amend. II
18. The Second Amendment is incorporated against the States, including the Commonwealth of Pennsylvania.

19. As a political subdivision of the Commonwealth of Pennsylvania, the City of Philadelphia must obey the Second Amendment.
20. The Second Amendment guarantees the right to bear arms.
21. A “Cutting Weapon” to which the Knife Ban applies is an “arm” within the meaning of the Second Amendment because the term specifically includes only items that “can be used as a weapon.”
22. Upon information and belief, there is no historical tradition of a complete prohibition of the practice of carrying knives or cutting weapons at any relevant period under *N.Y. State Rifle & Pistol Assoc., Inc. v. Bruen*, 597 U.S. \_\_\_, 142 S.Ct. 2111 (2022).
23. The Knife Ban violates the Second Amendment.
24. Section 1983 provides, among other things, that: “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.” 42 U.S.C. § 1983.
25. The Knife Ban is a “policy” of the City of Philadelphia within the meaning of *Monell v. Dep’t of Social Servs.*, 436 U.S. 658 (1978), as an official enactment of Council.
26. Among other things, Section 1983 permits injunctive relief, declaratory relief, and the award of reasonable attorneys fees.

## RELIEF REQUESTED

**WHEREFORE**, Plaintiffs request that this Court permanently enjoin enforcement of the Knife Ban, declare the Knife Ban illegal, award reasonable attorneys fees and court costs, and award any other relief that this Court deems just and proper.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Andrew B. Austin', is written over a horizontal line.

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# EXHIBIT A

## Philadelphia Code § 10-820

*retrieved from [https://codelibrary.amlegal.com/codes/philadelphia/latest/philadelphia\\_pa/0-0-0-283002](https://codelibrary.amlegal.com/codes/philadelphia/latest/philadelphia_pa/0-0-0-283002) on May 3<sup>rd</sup> 2023*

**§ 10-820. Cutting Weapons in Public Places. 269**

(1) *Definition.*

*Cutting Weapon.* Any knife or other cutting instrument which can be used as a weapon that has a cutting edge similar to that of a knife. No tool or instrument commonly or ordinarily used in a trade, profession or calling shall be considered a cutting weapon while actually being used in the active exercise of that trade, profession or calling.

(2) *Prohibited Conduct.* No person shall use or possess any cutting weapon upon the public streets or upon any public property at any time.

(a) *Exception:* This restriction shall not apply to the use and possession of cutting tools by emergency personnel of the Philadelphia Fire Department, whether on or off duty. 270

(3) *Penalty.* The penalty for violation of this Section shall be a fine of not less than three hundred dollars (\$300) and imprisonment of not less than ninety days.

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Notes

269 Added, 1968 Ordinances, p. 906.

270 Added, Bill No. [160333](#) (approved June 28, 2016).